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March 12, 1998

BY HAND

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

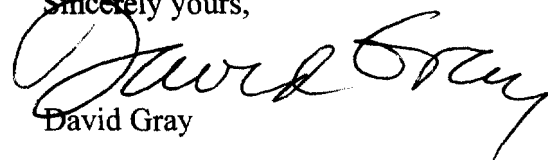
Re: In the Matter of Reallocation of Television Channels 60-69
ET Docket No. 97-157
Petition for Reconsideration

Dear Ms. Salas:

On behalf of ValueVision International, Inc. ("ValueVision"), enclosed are an original and eleven copies of ValueVision's Petition for Reconsideration in the above-referenced matter.

If there are any questions concerning the above matter, please communicate directly with the undersigned.

Sincerely yours,


David Gray

Enclosures

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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MAR 12 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
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Reallocation of Television Channels)
60-69, the 746-804 MHz Band)
)
_____)

ET Docket No. 97-157

To: The Commission

PETITION FOR RECONSIDERATION

Pursuant to 47 C.F.R. § 1.429, ValueVision International, Inc. ("ValueVision"), applicant for construction permits to build full-power television stations on Channel 64, Destin, Florida, and Channel 69, Des Moines, Iowa, hereby petitions the Commission for reconsideration of its Report and Order of January 6, 1998, regarding the reallocation of spectrum presently used by television channels 60-69.^{1/} In that decision, the Commission provided parties with pending applications for television stations on channels 60-69 "an opportunity to amend their applications . . . , if possible, to seek a channel below channel 60." Order ¶ 40. The Commission indicated, however, that it "will not authorize additional new analog full-service television stations on channels 60-69." Id. Consequently, all unamended applications to build stations on those channels will be dismissed. Id.

ValueVision agrees that the Commission's decision to afford applicants an opportunity to amend their applications to specify a channel below 60 is an equitable solution to

^{1/} Reallocation of Television Channels 60-69, Report and Order, FCC 97-421 (Jan. 6, 1998) ("Order").

the problem of conflicting demands on the 746-804 MHz band -- if a substantially equivalent channel below 60 is available. ValueVision and other applicants, however, have no assurance that a comparable channel even exists, and in fact it seems quite possible that no appropriate channel will be found in at least some areas. As the Commission is well aware, the DTV transition has congested the table of allotments in most parts of the country and very few vacant channels remain. The Commission, moreover, has not indicated that it will increase the likelihood of finding an open channel by, for example, looking favorably on short-spaced applications. Thus, notwithstanding the Commission's decision to permit amendment, ValueVision and others may gain little from it. They still stand to lose their applications if, as seems probable (at least for many applicants), amendment is not a viable option.

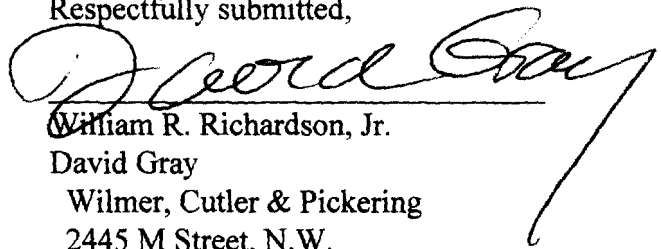
The Commission is therefore treating applications for stations on channels 60-69 far more harshly than any other application timely filed pursuant to the Commission's rules. No meaningful distinction accounts for this disparate treatment. The Balanced Budget Act of 1997^{2/} drew no distinction between applicants in mandating the Commission to permit settlements of pending applications. Rather, Congress provided that the Commission "shall" permit all applicants for pending television licenses to resolve conflicts among their applications -- a guarantee that would be meaningless if the Commission could also dismiss their applications. See 47 U.S.C. § 309(l). Moreover, ValueVision (and other applicants) had no notice or warning that their applications might be dismissed outright because the relevant spectrum was to be reallocated. To the contrary, the Sixth Further NPRM both set a cut-off date for the filing of

^{2/} See Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997) (amending 47 U.S.C. § 309(l)).

applications for analog stations and raised the possibility that the 60-69 MHz band might be reallocated -- but it in no way suggested (as it could have) that the applications invited by the Commission's cut-off date might then be dismissed in order to facilitate that reallocation.^{3/}

For the foregoing reasons, ValueVision requests that the Commission reconsider its Order to provide that a party who timely applied for a station on channels 60-69 shall be required to amend its application to specify a channel lower than 60, at a time specified by the Commission upon reasonable notice, but, if no comparable channel lower than 60 is available, shall nonetheless be allowed to continue to process its application for its current channel pursuant to the restrictions now applicable to permittees currently holding a construction permit for a station in that band. In the event that no equivalent channel were available, ValueVision also believes that the Commission should waive applicable settlement rules to give competing applicants the same opportunity to resolve their differences as the Order affords those applicants that are able to find a lower channel. See Order ¶ 40.

Respectfully submitted,



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Counsel for ValueVision International, Inc.

March 10, 1998

^{3/} See Sixth Further Notice of Proposed Rulemaking, MM Docket No. 87-268, 11 FCC Rcd 10968, at ¶¶ 25-26, 60 (1996).